

**DOCKET SECTION**

**BEFORE THE  
POSTAL RATE COMMISSION  
WASHINGTON DC 20268-0001**

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**POSTAL RATE AND FEE CHANGES, 1997**

**DOCKET R97-1**

**REPLY BRIEF OF  
THE NATIONAL NEWSPAPER ASSOCIATION**

April 10, 1998

The National Newspaper Association  
By its attorneys

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## **I. The Postal Service Fails to Support Its Own Methodology for Calculating Within-County Mail Volumes.**

NNA has presented evidence in this case designed to raise questions about the soundness of within-county subclass volumes in the base year and, by logical extension, the basis for its forecast. The evidence, as NNA points out in its initial brief, is not intended to supplant one set of volume numbers with another. Rather, NNA's objective is to offer one reason among several why the Commission should be skeptical of the Postal Service's Revenue, Piece and Weight ("RPW") report.

NNA's misgivings are not the basis upon which the Commission should order a revision of the volume-counting methodology. Rather, the Commission needs only to revisit its own misgivings from R94-1, in which anomalies in the data appeared on the record. Opinion and Recommended Decision of the Postal Rate Commission, Docket R94-1 at V-72. It may then turn to the record in this case, where the Postal Service readily admits having made no changes in the volume-counting system since that case. Tr. 15/7610. It is patently clear that a flawed system existed in 1994 and that it remains today.

Unable to justify its own inattention to the flaws, the Postal Service has chosen to attack NNA's skepticism. It claims that a mailers' survey relied upon by NNA's witness Max Heath is biased and demonstrates nothing. See Initial Brief of USPS at II-7. NNA does not offer its survey in the light attributed to it by the Postal Service. The Commission need not attribute greater importance to the NNA survey than it deserves and NNA does not request that it do so.

First, NNA does not purport to offer Heath's survey as the basis for volume forecasting. Heath readily admits that within the population of NNA members, those interested in postal rates and service may have been more likely to respond than those who were not. Tr. 27/14752-53. He also points out that his survey covered only a segment of the universe of weekly newspapers; but the survey was not distributed to non-members of NNA. Heath's target population of less than 4,000 titles left more than half of the weekly newspaper population unsurveyed. Tr. 27/14751.

Second, the survey was not designed to capture volumes or forecasts. As the Postal Service points out, the cover letter to NNA members explained that the purpose of the survey was to identify issues of concern to members. See Initial Brief of USPS at II-8. NNA does not offer Heath's calculations to supplant USPS data. It provides the survey only to reveal the root of NNA's disbelief in the non-countable subsystem. See Initial Brief of NNA at 15.

Finally, the Heath survey is but one block in a broad foundation of doubts developed in the record of this proceeding about within-county volumes. NNA offered evidence of growth for weekly newspaper circulations. Tr. 27/14751. The Postal Service itself pointed out the dramatic decline in use of the within-county subclass and offered only weak explanations. Tr. 13/6938-9. The Postal Service cannot defend its witness Tolley who with a few paragraphs of unsupportable conjecture, wipes away concern about a subclass that has lost half its volume in a decade. Tr. 13/6909-11, 6936-39.

The Postal Service additionally attacks the size of response to the Heath survey. See Initial Brief of USPS at II-8. But it says nothing about the size of the sample of rural post offices that produce its own volume numbers used in the RPW report. Tr. 9/4360. If 868 newspapers out of a total 4,000 produce unreliable data, the Postal Service should be required to explain its own reliance upon a sample of 92 post offices out of 6,103 for volume data. Tr. 9/4360.

The issue at hand is not whether Heath can count within-county mail volumes. The issue is whether the Postal Service, which has the burden of explaining the basis of its proposed rates, can justify a methodology that was impeached four years ago and has been permitted to limp along unattended while a key subclass continues to decline in an unexplained tailspin.

NNA is unable to explain the purported decline. It submits only that the cause has one of two roots: either the weekly newspaper business has largely fled from the subclass, or the Postal Service has miscounted. Given the great breadth of post offices whose volumes are captured only through sampling, Tr. 9/4382, and the small sample actually counted, NNA argues that the possibility of error looms large.

NNA's position in this case is that further rate increases would aggravate an already difficult problem. If under-counting is involved, publishers are being unfairly penalized by higher rates. If counting is accurate and eligible users

are fleeing the system, higher rates will simply push more mail out of the Postal Service. The Commission should freeze the rates until the Postal Service is able to offer sound data and to provide a believable explanation for the loss of business.

## **II. The Postal Service simply ignores the impact of unreliable delivery upon value of service.**

The Postal Service argues for acceptance of witness O'Hara's proposed cost coverage of 107 percent for regular periodicals subclass and 103.5 percent for within-county subclass. It notes that he appropriately takes into consideration the seemingly inexplicable increases in mail processing costs. It further incorporates consideration of the effect upon smaller publications of Docket MC95-1. Finally, it examines alternative distribution. See Initial Brief of USPS at IV-43.

The Postal Service explicitly does not take into consideration the actual delivery of periodicals, which several witnesses note has been in decline since MC95-1. See Tr. 27/14714, 14746, 14897; Tr. 28/15301. It might have acknowledged the complaints of mailers, of which it has been aware, Tr. 2/240, in the same manner as it acknowledged the ballooning of mail processing cost, as an additional reason for moderated cost coverage.

However, it did not. The Postal Service makes it abundantly clear that if the atrophy of periodicals delivery systems is to have any impact upon rates, it is left to the Commission to deliver it. NNA argues that even a low cost

coverage is too high if no economic penalty results from poor service. Accordingly, NNA believes a further adjustment in the cost coverage is warranted.

**A. Exceptional dispatch is still an uncompensated form of work-sharing.**

NNA requested Commission reconsideration of a DDU entry discount to publishers who undertake short hauls of newspapers within their market areas so that readers will not suffer from the Postal Service's alternation of transportation patterns. Tr. 27/14895-96. Witness Speights offered an explanation of the practicalities of exceptional dispatch to add to the Commission's record on the subject and to set aside concerns raised in MC95-1 about impact upon Postal Service costs. Opinion, MC95-1 at V-131-38.

The Postal Service responds that exceptional dispatch is already being compensated via a new service, unexplored on this record, called "dynamic entry." See Initial Brief of USPS at V-232. It seems to acknowledge that relief is warranted and to claim, inexplicably, that relief has already been provided.

Evidence of the creation of "dynamic entry" was not offered by the Postal Service. NNA did not become aware of the practice until after the close of discovery on the Postal Service's case. Heath provided it as an indication that the Postal Service had announced, and evidently felt it possessed, some flexibility in its entry requirements. However, Heath's exhibit



was not authenticated by its author nor by any Postal Service witness. Indeed, the contents of it were not subjected to cross-examination by any party.

The Postal Service was obviously aware of NNA's interest in the subject through NNA's direct case and through the use of the Mailers' Companion article. See Initial Brief of USPS at V-232. It could have offered evidence on rebuttal, if it chose, to show that NNA's position was errant and that small newspapers had new access to DDU discounts via dynamic entry. It did not do so. In addition, it offered no evidence that dynamic entry and exceptional dispatch were so closely allied as to achieve the same ends nor that dynamic entry would be any more realistic to address the concerns of a small mailer like NNA witness Speights than would the option of additional entry. The Postal Service merely relies upon an exhibit introduced by NNA in response to the Commission's recommendation that administrative relief should be available for publishers forced by circumstance into exceptional dispatch. Contrary to the Postal Service's deft misdirection, no "administrative relief " has been explained on this record. The Commission should disregard the Postal Service's assurances.

**B. The 125-piece walk-sequence threshold remains an arbitrary entry barrier.**

Incredibly, the Postal Service rests its request for denial of NNA's request for a change in eligibility for the walk sequencing discount upon a suggestion that its carriers will become more efficient. See Initial Brief of USPS at V-234. It points out that automated delivery point sequencing has come into being since

Docket MC95-1 and that with it will be an expanded capacity for household coverage by a carrier.

The basis for the 125-piece threshold was arbitrary when implemented in Docket R90-1. It was created because no other viable level for the discount was studied. See Opinion and Recommended Decision of the Postal Rate Commission, Docket R90-1 at V-133. It remains as arbitrary today as it was in 1990. The Postal Service simply finds it inconvenient to examine other options.

Automated delivery point sequencing is an admirable development, but does not offer serious change in the way newspapers are delivered. Even when it is fully implemented, however, it is unlikely to bring rural houses closer together or encourage new families to move onto sparsely-populated roads. A small rural route will continue to present the difficulties to a mailer seeking a 125-piece mailing that witness Heath describes in his testimony. Tr. 27/14886. Automated delivery point sequencing may give the carrier time for a second cup of coffee before he or she goes out to fill the mailboxes by the roadside, but it is not likely to provide Heath and other small newspaper mailers any more subscribers in rural America.

*The arbitrariness of the threshold is undefended by the Postal Service.* As it often does, the Postal Service responds to the need for better data with bromides and incomplete responses to the Commission. The Commission should encourage it to supply more persuasive record of the true cost-savings in high density presorting by granting NNA's request. If the discount proves to be too deep or the density limits fall more naturally at a different point in the spectrum,

the Postal Service is in the best position to persuade the Commission of its wisdom once it makes a genuine effort to examine all reasonable options.

### **III. Conclusion**

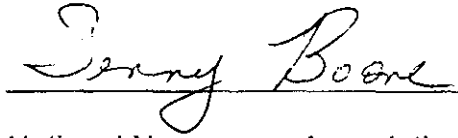
Serious and neglected difficulties with the delivery of community newspapers have been presented in this docket. With the exception of one--the dismally new problems with timely delivery--each has been presented in prior dockets. In each case, the absence of data or action by the Postal Service has prevented relief for within-county and regular rate periodicals mailers.

The time for examining the most serious of them--the decline of within-county volumes and the attendant possibility of under-counted pieces--is running out. A continued downward trend in this subclass will eventually squeeze the remaining pieces out of the mailstream. The consequences of that outcome will be devastating for those mailers who are unable to find alternatives.

The need for recognition of poor service and to compensate mailers for the work they do in order to get their mail delivered efficiently and on time are honored principles within the Commission's domain. The Commission should freeze the within-county rates until the Postal Service offers sound data, grant a modified cost coverage for periodicals, and grant the two discounts NNA requests.

NNA urges the Commission to exercise its authority in each of these requests to create a fairer and more efficient mailstream.

Respectfully submitted,



National Newspaper Association  
By its attorneys

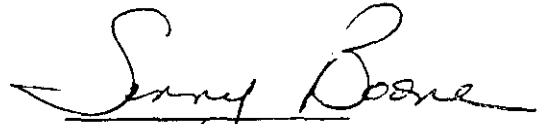
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#### CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

April 10, 1998

  
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